COMMONWEALTH OF MASSACHUSETTS
BEFORE THE
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Petition of Western Massachusetts Electric Company for approval of its Transition Charge Reconciliation for the calendar-years 2003-2004, Transmission reconciliation for the calendar-years 2003-2004, and final true-up for 2002, Default Service reconciliation for the calendar-years 2002-2004, and Standard Offer reconciliation for the period January 1, 2002 through February 2005.	)	D.T.E. 04-40 D.T.E. 04-109 D.T.E. 05-10

INITIAL BRIEF OF WESTERN MASSACHUSETTS ELECTRIC COMPANY

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I. PROCEDURAL HISTORY

The instant proceeding before the Department of Telecommunications and Energy ("Department") is a consolidation of several reconciliation matters. On March 31, 2004, Western Massachusetts Electric Company ("WMECO" or "Company") submitted its Transition Charge reconciliation filing for calendar-year 2003 to the Department. The matter was docketed as D.T.E. 04-40. Included in this filing, pursuant to the Department's Order in D.T.E. 03-125, were WMECO's Default Service/Standard Offer[1] reconciliation for calendar-year 2002 and the transmission charge reconciliation for calendar-year 2002.

Subsequent to WMECO's filing in D.T.E. 04-40 but prior to any evidentiary hearing in that proceeding, the Department issued its Order in the earlier WMECO Transition Charge reconciliation proceeding, D.T.E. 03-34 (September 24, 2004). In order to respond

[1] Default Service is now known as Basic Service. D.T.E. 04-115-A (February 7, 2005).

to certain reporting requirements in the Department's D.T.E. 03-34 decision, WMECO submitted an updated D.T.E. 04-40 filing on December 1, 2004.

At approximately the same time, on November 24, 2004, WMECO submitted its annual Default Service/Standard Offer reconciliation and transmission cost adjustment. This matter was docketed by the Department as D.T.E. 04-109.

Finally, WMECO submitted a further Transition Charge reconciliation, Default Service/Standard Offer reconciliation, and transmission charge reconciliation on March 31, 2005. This matter was docketed as D.T.E. 05-10. Due to the closely-related subject matter of D.T.E. 04-40, D.T.E. 04-109 and D.T.E. 05-10, the Department consolidated these proceedings into one docket. Tr. 04-109/05-10 (May 5, 2005), p. 4.[2] The only party to intervene and actively participate in this proceeding was the Attorney General.[3]

Accordingly, the current request before the Department incorporates each of the reconciliations in D.T.E. 04-40, D.T.E 04-109 and D.T.E. 05-10. These reconciliations are:

(1) Transition Charge reconciliation for the calendar years 2003 and 2004;
(2) Transmission reconciliation for the calendar years 2002-2004;
(3) Default Service reconciliation for calendar-years 2002-2004;
(3) Standard Offer reconciliation for the period January 1, 2002 through February 2005.

The evidentiary hearing in this proceeding was held on September 13, 2005. Testifying for WMECO were: (1) Michael J. Mahoney, Director of Revenue Requirements for Northeast Utilities Service Company, which provides centralized services to the

[2] WMECO combined the elements of D.T.E. 04-40, D.T.E. 04-109 and D.T.E. 05-10 in its D.T.E. 05-10 filing for efficiency and ease of reference. That filing document is marked as Exhibit WM-1 in this proceeding.

[3] The Western Massachusetts Industrial Customer Group intervened in D.T.E. 04-40 but promulgated no data requests and did not appear at the evidentiary hearing.

Northeast Utilities operating companies, including WMECO; and (2) Robert A. Baumann, Director, Revenue Regulation & Load Resources for Northeast Utilities Service Company. Testifying for the Attorney General on selected issues was David J. Effron, an accountant. Entered into the record at the close of hearing were the following exhibits:

Exhibit No.	Description
WM-1-	March 31, 2005 filing (grey binder)
MJM	Testimony of Michael J. Mahoney
MJM-1	M. Mahoney 2003-4 Transition Revenues
MJM-2	M. Mahoney 2003-4 TC Rate Change Schedules
MJM-3	M. Mahoney 2003-4 TC Reconciliation Schedules
MJM-4	M. Mahoney 2002-4 Transmission Reconciliation Schedules
RAB	Testimony of Robert Baumann
RAB-1	R. Baumann 2002 SO Reconciliation
RAB-2	R. Baumann SO Adjustment Factor calculation - 2002
RAB-3	R. Baumann SO 2000 Final Reconciliation
RAB-4	R. Baumann DS Reconciliation 2002
RAB-5	R. Baumann DS Adjustment Factor calculation – 2002
RAB-6	R. Baumann SO Over/Under Collection, TC transfer
RAB-7	R. Baumann 2003 SO Reconciliation
RAB-8	R. Baumann SO 2001 Final Reconciliation
RAB-9	R. Baumann SO Reconciliation – 2004 through Feb. 2005
RAB-10	R. Baumann SO 2002 Final Reconciliation
RAB-11	R. Baumann DS Over/Under Collection, TC transfer
RAB-12	R. Baumann DS 2003 Reconciliation
RAB-13	R. Baumann DS Reconciliation 2004
AG-1/DJE	Prefiled Testimony of David Effron
AG-1/DJE-1 to 3	Schedules 1-3 to Effron testimony
AG-2	AG representation of WMECO transition revenues

DTE-WM- Information Request-1-1 to 1-12
AG-WM- Information Request-1-1 to 1-34
AG-WM- Information Request-2-1 to 2-29
AG-WM- Information Request-3-1 to 3-09
DTE-AG- Information Request-1-1
WM-AG- Information Request-1-1 to 1-5

In addition, the Attorney General issued four record requests at the hearing. These have been responded to and are now part of the record as AG-RR-1 through AG-RR-4.

II. OVERVIEW

In Exhibit WM-1, WMECO has included numerous calculations and explanations pertaining to its Transition Charge reconciliation, Default Service/Standard Offer reconciliation, and transmission reconciliation. Neither the Attorney General nor the Department took issue with the vast majority of these calculations and resulting adjustments. As an initial matter, these uncontested elements of WMECO's filing should be approved.

In his brief, the Attorney General raises a handful of issues. These pertain to: (1) Prior Spent Nuclear Fuel, a matter previously resolved by the Department; (2) Litigation, Consulting and Independent System Operator ("ISO") Generation Information System ("GIS") costs related to the provision of Default Service and Standard Offer; (3) Recovery of Default Service and Standard Offer reconciliation balances; (4) Calculation of Carrying Charges; and (5) application of the Transition Charge to rate classes.

WMECO will address below each of these, other than the calculation of carrying charges. The Attorney General proposed an adjustment to WMECO's calculation of carrying charges in Exhibit AG-1/DJE-1. That adjustment contained an error but the Attorney General, through Mr. Effon, appears to have corrected his mistake in response to WM-AG-IR-1-5 (*see, also*, Attorney General Brief, p. 13). WMECO does not take issue with the corrected calculation.

A. The Attorney General Cannot Be Allowed to Relitigate the Settled Matter of WMECO's Treatment of Prior Spent Nuclear Fuel.

1. Background

The Department has extensively considered and approved a treatment for WMECO's Prior Spent Nuclear Fuel ("PSNF") obligation. WMECO initially filed for treatment of its PSNF obligation in D.T.E. 02-49 (September 6, 2002). The PSNF element of D.T.E. 02-49

was later withdrawn and WMECO then submitted a filing (D.T.E. 03-82) that had a sharing mechanism providing savings to customers (September 20, 2003). After a full examination of this filing, in which the Attorney General participated, the Department's Commission, on July 19, 2004, unanimously approved WMECO's financing and treatment of the PSNF. (The D.T.E. 03-82 decision and WMECO's and the Attorney General's initial brief in that proceeding are appended to this brief.)

In D.T.E. 03-82, the Attorney General argued on brief that WMECO's proposal should be rejected because it would reduce mitigation of transition costs in contravention of the Electric Restructuring Act[4] and that WMECO is obligated to maximize mitigation of transition costs. (D.T.E. 03-82, Order, p. 11). The Attorney General further argued that the sharing mechanism was inadequate. (*Id.,* pp. 11-12).

The Department, however, rejected each element of the Attorney General's position. In fact, the Department specifically stated that WMECO's proposal would benefit ratepayers and approved WMECO's petition without change. (*Id.,* pp. 17, 21, 22-23, *see also* Exh. AG-WM-IR-1-6, 2-2). The Attorney General asked for reconsideration of the Department's decision. This request for reconsideration was denied. D.T.E. 03-82-A (November 30, 2004). The Attorney General did not appeal the Department's decision.

Unwilling to accept the Department's decision in D.T.E. 03-82 and apparently unwilling to go through proper appeals channels with the Supreme Judicial Court, the Attorney General has now resorted to a third option. That option is to act as if the Department never considered PSNF previously and raise the exact same Electric

[4] Chapter 164 of the Acts of 1997, "An Act Relative to Restructuring the Electric Industry in the Commonwealth". The pertinent portions of the Act are codified in G.L. c. 164.

Restructuring Act and mitigation arguments against PSNF that were rejected by the Department in July 2004 (*see* Attorney General Brief, p. 5).

2. Mr. Effron Has No Basis for Making a Recommendation Pertaining to PSNF.

Mr. Effron devotes several pages of his pre-filed testimony to the PSNF issue. He quotes many of the same types of figures that were raised by the Attorney General in D.T.E. 03-82. Not surprisingly, he professes to dislike WMECO's proposal with respect to PSNF even with the benefit to customers of the sharing mechanism. He then comes to the conclusion that the Department-approved sharing mechanism is inadequate and that now, a year after WMECO's implementation of the PSNF mechanism approved by the Department, the Department should reverse its order in D.T.E. 03-82 and penalize WMECO in excess of half a million dollars (not taking into account penalties that may be imposed beyond calendar 2004). Exh. AG-1/DJE, p. 8.

Mr. Effron's testimony should be rejected, along with the Attorney General's entire PSNF argument because, as described above, the Department has already considered the Attorney General's position with respect to PSNF and the sharing mechanism and rejected them. Second, Mr. Effron demonstrated little or no knowledge concerning WMECO's PSNF proceedings at the Department. Mr. Effron admitted at hearings that he was not familiar with WMECO's initial PSNF filing in D.T.E. 02-49. Tr., p. 56. He further did not know what type of sharing mechanism was contained in that filing, if any. *Id.* In preparing his testimony for this proceeding, he apparently did not even read the transcript or other documents in D.T.E. 03-82 stating: "I relied mainly on the Department order, but I did not go through and review the transcripts and that kind of thing." *Id.* Based on his admitted ignorance of the substantial record that has been produced at the Department on the subject

of PSNF there is reason enough to give no weight to his testimony or conclusions. Perhaps if he had reviewed any substantial part of the record he would agree with the Department's conclusion in D.T.E. 03-82. Finally, Mr. Effron as an accountant has no basis for knowing or even expressing an opinion as to whether the Department can review PSNF again. He admitted as much at hearings. He stated: "I can't sit here and tell the Department what it meant by its own order. The Department knows itself better than I do." Tr., p. 62. He also added: "If in fact the Department did approve the company's sharing mechanism and did intend the approval to be reflected in the transition charge, then my testimony is to no avail." Tr., p. 64.

Accordingly, Mr. Effron's testimony can not be relied upon or given any weight.

3. The Department Was Presented with a Comprehensive Record on PSNF in D.T.E. 03-82 and Made All Necessary Findings.

In D.T.E. 03-82, the Department developed a full record on WMECO's proposal, including the sharing mechanism. In that proceeding the Attorney General claimed that WMECO had not maximized mitigation of generation-related transition costs under the provisions of the Electric Restructuring Act codified in G.L. c. 164, §1G, and that the shared savings provided were not sufficient. Order, p. 7. This is the same statute and arguments that the Attorney General invokes in the present proceeding. Attorney General Brief, p. 5. The Department reviewed the record in D.T.E. 03-82 and rejected every one of the Attorney General's positions. *See, e.g.*, Order, page 16, where the Department states "[t]he Attorney General makes a number of erroneous assumptions…." In doing so, the Department went beyond a narrow financing view to consider the filing in the context of the Electric Restructuring Act. For example, the Department found that "[t]he Electric Restructuring Act does not require the perpetuation of mitigation offsets that no longer exist." Order, p.

15. The Department also found that the sharing mechanism "would benefit ratepayers…through the proposed sharing mechanism" (Order, p. 17) and that the "benefits of the Company's proposal include a more balanced debt-to-capitalization ratio, as well as lower weighted-cost of debt that would be applied in WMECo's next rate case" (Order, p. 21).

Faced with these adverse facts, the Attorney General resorts to the idea, contrary to the very language of the Department's D.T.E. 03-82 Order, that the Department did not engage in a mitigation analysis or any other analysis under the Electric Restructuring Act, and only rejected the Attorney General's positions because they were raised in a financing request. This position of the Attorney General is based on a reading, or more accurately, a misreading, of the Department's discussion on page 15 of its Order. Attorney General Brief, p. 8/p. 8 n. 1 Even a casual reading of page 15 of the Department's Order in D.T.E. 03-82 shows that the discussion there involved the Attorney General's erroneous argument that the D.T.E. 03-82 financing request was the same as a "financing order" (that is, a securitization order) under G.L. c. 164, §1H. D.T.E. 03-82 had nothing to do with securitization and neither does the current proceeding.

Accordingly, the Department developed a full record in D.T.E. 03-82, looked at the sharing mechanism through the prism of a financing docket and the Electric Restructuring Act, as requested by the Attorney General, and approved the financing and the sharing mechanism. The Department should include the approved sharing mechanism in transition costs as shown in its filing and on Exhibit AG-WM-IR 1-6.

4. The Case Cited by the Attorney General Provides No Basis for Performing Another Analysis of the Sharing Mechanism.

The Attorney General argues in his brief that the Department has to perform yet another analysis of WMECO's PSNF sharing mechanism before it can be included in transition costs. Attorney General Brief, pp. 4-5. The Attorney General's position appears to rest largely on a fifty-year old, three-page decision, *Cambridge Electric Company v. Department of Public Utilities*, 333 Mass. 536 (1956). The Attorney General's contention is misplaced. The Department has made all the requisite findings and there is no need or requirement of a redundant review.

In the Cambridge Electric case, the utility asked the Court to overturn a Department decision and order the Department to set higher rates under Section 94 of Chapter 164. The basis for the claims was that the purchaser of utility stock at an approved price has a guaranty that future rates will always support the price of the stock at the purchase price. *Id., pp. 539-540.* Not surprisingly, the Court upheld the Department, finding that years after a stock issuance there was no such guaranty. *Id.* WMECO does not take issue with the Court's decision, but it has little or nothing to do with the current case.

In this case, no one is asking a court to overturn a Department decision and guarantee a stock price. Rather, WMECO submitted a financing application, under G.L. c. 164, sec. 14, involving its PSNF obligation intertwined with a sharing mechanism, all to benefit customers. There was no dispute in D.T.E. 03-82 that the only way for the sharing mechanism to become effective is through the transition charge. Accordingly, the Department analyzed the financing and sharing mechanism in depth and made findings sufficient to approve the financing and to approve an integral part of the financing scheme, application of the sharing mechanism in the transition charge. Order, D.T.E. 03-82, pp. 17, 21. The Attorney General's claims amount to no more than a wish that the Department had

done something different. WMECO relied on the Department's decision to bond the PSNF obligation and reflect the proper sharing mechanism in transition costs.[5]

In this same vein, the Attorney General posits that WMECO is asking the Department to approve "automatically" the sharing mechanism and that a mitigation analysis should have been done. Attorney General Brief, p. 5. This type of argument turns facts on their head. Perhaps the Attorney General is not cognizant of its participation in the D.T.E. 03-82 proceeding. As stated above, the record and the Department's D.T.E. 03-82 Order amply prove that a comprehensive analysis was done, including a considerable focus on the effect on transition costs and mitigation. *See* D.T.E. 03-82, Tr., pp. 34-60. The Attorney General also states that the Department needs to implement a different standard of review for transition cost mitigation. With respect to the standard of review, financings are analyzed under a comprehensive public interest test. *Town of Hingham v. Department of Telecommunications and Energy*, 433 Mass. 198 (2001). Even if the PSNF sharing mechanism had not been tested with full consideration to transition cost mitigation, the public interest standard is sufficiently robust to support the Department's findings.

In sum, WMECO has properly reflected the Department's approved sharing mechanism in its transition rates and this portion of its reconciliation filing should be approved.

B. WMECO Should Be Able to Recover Legitimate Costs of Providing Default Service and Standard Offer to Its Customers, Including Mandated Consulting Costs, Mandated ISO Costs and Necessary Litigation Defense Costs.

[5] Had the Department not approved the sharing mechanism it is not clear that WMECO would have proceeded to issue the PSNF bonds.

In providing Default Service and Standard Offer for its customers as a pass-through service (that is, WMECO as a company earns nothing for this function), WMECO has incurred costs as a result of mandated independent third party consultant fees, GIS charges levied by the ISO, and, most significantly, defending customers against lawsuits whose aim was (and still is) to increase the charges imposed on customers. These costs are as follows:

Consulting Cost Default Service -	$112,176	Exh. WM-RAB-4, p. 3, RAB-12, p. 3 RAB-13, p. 3
Consulting Costs Standard Offer -	$33,054	Exh. WM-RAB-1, p. 3, RAB-7, p. 3 RAB-9, p. 3
Gen. Information System - Standard Offer	$129,915	Exh. WM-RAB-1, p. 3, RAB-7, p. 3
Litigation Default Service/ - Standard Offer[6]	$1,026,275	Exh. WM-RAB-7, p. 3, RAB-9, p. 3, RAB-12, p. 3, RAB-13, p. 3.

In his brief, the Attorney General does not take issue with the level of costs the Company has expended as a result of these functions. Nor does he take issue with the fact that these costs may be necessary, reasonable and prudent. Attorney General Brief, p. 10. The Attorney General simply says that these costs, which are significant for WMECO, are stranded and unrecoverable because they were not actual monetary payments to suppliers. *Id.*[7] [8]

[6] Litigation costs are a result of defending lawsuits evolving from the calendar-year 2000 Default Service and Standard Offer procurement. Default Service and Standard Offer were procured as one product for 2000. *See*, *e.g.*, Exhibit WM-1, RAB-7, p. 3, annotation to column (e).

[7] The Attorney General also sets out WMECO's Default Service and Standard Offer tariff language, which differ. Attorney General Brief, p. 9. The Default Service language in particular is fairly broad, allowing recovery for WMECO "total cost of purchased power." *Id.* The total cost of service must certainly include payments integral to delivering the service, including defending lawsuits and paying mandated costs. As such, at a minimum, all Default Service-related costs, totaling $1,138,451 should be subject to recovery (Default Service Consulting Cost of $112,176 plus litigation costs of $1,026,275).

[8] In no other proceeding, including D.T.E. 03-88, has WMECO collected incremental costs related to the cost of providing regulated supply.

The Attorney General's position is myopic, and if accepted would inure to the detriment of WMECO's customers and all electric company customers. WMECO's responses to information requests AG-WM-1-18, AG-WM-1-23, AG-WM-2-14, and AG-WM-2-15 (each now an exhibit) set forth the background for each of these costs and the rationale for their collection. Rather than restating each of these responses in full here, WMECO appends each of them as part of this brief.

As shown in the information responses, each expense was either incurred as a result of an action by a regulatory body (independent consulting costs incurred as a direct result of the Department's decision in D.T.E. 97-120; ISO GIS costs incurred as a result of an ISO directive) or incurred as a result of suppliers' direct attempts to increase customers' Default Service/Standard Offer obligations (litigation costs).

With respect to consulting costs, there is precedent for WMECO's collection of such costs in the Default Service/Standard Offer reconciliation. In the last litigated Default Service/Standard Offer reconciliation, WMECO requested recovery of the same type of independent third-party consulting costs at issue here. *See* D.T.E. 03-34, Exh. RAB-1, p. 3, Exh. RAB-3, p. 3 (included in WMECO's 2002 Revised Transition Charge Reconciliation Filing). The Department approved recovery of these charges without comment in its order of September 24, 2004.

With respect to litigation costs, the Default Service and Standard Offer contracts WMECO entered into were submitted to and approved by the Department after review.[9] *See* D.T.E. 97-120-D (December 30, 1999). Each of these contracts contained explicit language setting forth procedures for resolution of disputes through binding arbitration and/or

[9] These contracts are part of the record in D.T.E. 97-120-D.

litigation. Having approved contracts calling for dispute resolution, WMECO was obligated to honor the contracts by defending against unmeritorious lawsuits. In fact, WMECO's litigation efforts defending against higher payment to suppliers for calendar 2000 Default Service/Standard Offer costs have been, to date, wholly successful. Exh. AG-WM-1-23. While these litigation costs have not been payments to suppliers for Default Service/Standard Offer, they have in effect reduced the payments that otherwise would have been paid to suppliers. Exh. AG-WM-1-23. That is, had WMECO not defended the lawsuits, customers ultimately would have been burdened with higher actual Default Service/Standard Offer costs. Therefore, in a very real sense these litigation costs could be considered payments to suppliers – payments in which a dollar of litigation costs equals much more than a dollar in Default Service/Standard Offer supply.

In addition, the Attorney General interprets narrowly the Standard Offer tariff wording allowing 'payments to Suppliers" to be collected through the Standard Offer reconciliation. Had this interpretation been accepted by the Department in the past, payments *from* suppliers would never have been properly credited to customers. These payments from suppliers were generally related to congestion costs in the year 2000. The payments, although not 'to' suppliers, were part of the final reconciliation of 2000 Default Service/Standard Offer costs. D.T.E. 01-36/02-20 (Phase II), p. 5 (July 15, 2003); D.T.E. 01-36/02-20 Phase II, Tr., pp. 111-2. It would have been to customers' detriment to interpret the tariff language in the way the Attorney General proposes then and it is a mistake and contrary to common sense to interpret it that way now.

Beyond the reasons set forth above, there is an additional, powerful argument for the recovery of litigation costs and, to a somewhat different extent, consulting and GIS costs.

That is the public policy rationale. Public policy should support efforts by a regulated utility to provide electric service at the lowest reasonable cost to customers. In contesting suppliers' efforts to increase customers' Default Service/Standard Offer payments, WMECO gains no financial advantage. The benefit runs solely to its customers. Exh. AG-WM-2-15. WMECO accepts that. However, a determination that goes further and finds that WMECO should be *penalized* for doing what is in its customers' best interests is wholly inconsistent with any rational public policy.

It also is important to note that despite all of WMECO's efforts, elements of the Default Service/Standard Offer litigation continue, as one particular supplier appears intent on exhausting every conceivable judicial avenue. As such, more litigation expenses are in the offing. Any finding that current litigation expenses cannot be recovered, meaning also that future litigation expenses will not be subject to recovery, is a powerful incentive for WMECO and other electric companies to discontinue fighting for customers' interests. This is exactly contrary to the message that the Department and the Commonwealth should be sending, particularly at this time of high energy costs.

A similar public policy rationale applies to consulting costs and GIS costs. In each case, these costs were imposed as part of the Default Service/Standard Offer system by an appropriate regulatory body. Public policy should favor recovery of costs imposed by regulators.

In sum, the Company's applicable tariffs do not preclude recovery of consulting, ISO GIS and litigation costs expended on behalf of customers pursuant to a contract approved by the Department or as required by the Department and the ISO. The Department should grant

recovery for these necessary, reasonable and prudent costs that bring benefits to WMECO's customers.

C. It Is Reasonable To Collect Default Service and Standard Offer Through the Transition Charge and the Department Has Approved Such Recovery in the Past.

As the Department is aware, predicting Default Service and Standard Offer costs is not a precise science and WMECO has ended various recovery periods with under- or over-recoveries in both accounts. *See, generally,* Exhibit WM-1, RAB, and Exh. WM-1, MJM-3, p. 3. The current balance is an under-recovery. No party objects in this proceeding to the manner in which these under-recoveries were calculated or objects to WMECO's recovery of them. The issue is whether the under-recovered sums may be recovered through the Transition Charge. Attorney General Brief, pp. 10-12.

It is clear from WMECO's tariffs MDTE No. 1026T (Default Service) and MDTE No. 1025D (Standard Offer) that under-recoveries are to be collected from all customers. Because it is assessed to all customers, the transition charge is the best and most readily available vehicle for collection. Other charges, such as the Default Service (now termed Basic Service) charge, are not billed to every customer. Exh. WM-1, RAB, p. 14.

WMECO's Default Service tariff language permits collection of over-or under-recoveries through the Transition Charge. The only limitation in MDTE No. 1026T is that over- or under-recoveries must to be collected through an adjustment factor. Tariff, p. 6. There is no indication that the adjustment is barred from taking place in the Transition Charge reconciliation mechanism.

The Department has previously agreed that recovery of Default Service over- or under-recoveries in the Transition Charge is appropriate. In D.T.E. 02-77 (December 27, 2002) and D.T.E. 03-125 (December 29, 2003), the Department approved the use of the Transition Charge to true-up Default Service over- or under-recoveries. If there was any question that the Department's approval in D.T.E. 02-77 was not broad enough to allow such recovery, the Department removed any doubt by approving the procedure in D.T.E. 03-34. Exh. AG-WM-2-6. Furthermore, the Department made its rulings in D.T.E. 02-77 and D.T.E. 03-34 after considering the same objections raised by the Attorney General in this proceeding. *See* Attorney General Comments, D.T.E. 02-77, p. 2 (December 19, 2002).

Similarly, WMECO's Standard Offer tariff states that recovery must be made through a factor or surcharge, and the factor or surcharge cannot exceed $.0005 per kwh. Tariff, p. 3, Exh. WM-1, RAB, p. 15. Mr. Baumann stated in his testimony that the factor or surcharge would be far less than that, $.00011 per kwh. *Id.* There is no prohibition from collecting this factor in the Transition Charge. Moreover, to assess the customer a separate surcharge is confusing for customers and is unnecessary because doing so would mean that the customer receives a credit for the Transition Charge over-recovery while being assessed a surcharge for the Standard Offer under-recovery. Exh. WM-AG-2-3. There is no point in putting money in one of the customer's hands only to take it out from the other. There is also nothing on the record of this proceeding to indicate WMECO's approved approach is any different than that of other electric companies in this respect.

An issue raised during hearings and on brief by the Attorney General is the rate at which carrying charges are to be calculated for the Default Service and Standard Offer over- and under-recoveries. Attorney General Brief, p. 11-12. The Default Service and Standard

Offer over- or under-recoveries are calculated at the customer deposit interest rate (two-year Treasury rate) as opposed to Transition Charge over- or under-recoveries that are calculated at the Company's weighted cost of capital. Tr., pp. 47-48. In the past, when the Company has recovered the Default Service over- or under-recoveries through the Transition Charge, as approved by the Department, it has done so at the weighted cost of capital. Exh. AG-WM-2-6. There is no distinction between Default Service or Standard Offer over-recoveries (where the customer gets the benefit of a higher interest rate) and Default Service and Standard Offer under-recoveries. The cost of capital interest rate is applied in a neutral fashion.

This methodology is not dissimilar in nature to the general handling of customer deposits by WMECO. When the Company receives a customer deposit it earns the two-year Treasury rate. However, the carrying charge on customer deposits does not end there. WMECO must additionally include all customer deposits as a reduction to rate base, consistent with D.T.E. precedent. *See, e.g., Bay State Gas Company*, D.T.E. 05-27, Exh. BGC-GES-1, Sch. GES-16, p. 4 of 9. Thus, a customer deposit, which is nominally credited at the two-year Treasury rate really earns a return at the Company's weighted cost of capital.

Default Service and Standard Offer over- and under-recoveries are connected to WMECO's cost of capital in another way. As set forth in Exh. DTE-WM-1-6, the Transition Charge over-recovery is a source of funding which reduces the need for the Company to incur additional debt borrowing or equity issuances. The Default Service and Standard Offer over- or under-recoveries have a similar function. Any reduction in available capital may trigger the need for debt and/or equity, which is by definition obtained at the Company's cost of capital.

Accordingly, WMECO's proposed method of collecting Default Service and Standard Offer over- and under-recoveries is reasonable and consistent with prior Departmental decisions. It should be approved.

D. The Attorney General's Vague Suppositions Regarding Inter-Class Transition Charges Are Beyond the Scope of This Proceeding, Are Contrary to Precedent and Are Unsupported.

In this case, the Attorney General engaged Mr. Effron to analyze WMECO's reconciliation filing. Mr. Effron identified four issues, which are listed in Section II, above. Mr. Effron proposed no other changes to WMECO's filing. Tr., p. 53. In his initial brief, however, the Attorney General now tries to argue a new point, that there are inter-class subsidies in WMECO's calculation of the transition charge. Attorney General Brief, p. 14. The whole basis for this argument is one exhibit that was unsupported by any witness and was discredited at hearings. Tr., pp. 26-32, 69.

As an initial matter, it appears that the rate design subject raised by the Attorney General is beyond the scope of this proceeding. This proceeding is meant to examine the reconciliations needed for transition costs, Default Service and Standard Offer costs, and transmission costs. It was not noticed to examine how transition charges were set for particular rate classes. As far as can be determined from the Attorney General's brief, the Attorney General is not claiming that the overall level of transition cost recovery was misstated by the Company or that any transition costs should be disallowed. Attorney General Brief, pp. 14-15. Accordingly, the Department should reject the Attorney General's argument as outside the purview of the Department's inquiry in this proceeding.

Second, the mishmash of numbers that the Attorney General throws out in the one paragraph of his brief devoted to this issue are unsupported. Attorney General Brief, pp. 14-15. The figures are based primarily on Exhibit AG-2, which, as stated above, was not sponsored by any witness. In addition, Exhibit AG-2 was repudiated by the only witnesses to comment on it, Mr. Baumann and Mr. Mahoney. In general, the discussion on Exhibit AG-2 at the hearing can be illustrated by the following exchange on pages 27-28 of the transcript:

> Q. [Mr. Cochis] Mr. Baumann, according to the calculations in the handout [Exh. AG-2] – and again, I understand you have reservations about the handout, and we'll get to those. But according to the calculations in the handout, the residential class contributed significantly more than the uniform rate, while the average company-wide contribution was less than the uniform rate.
> …..
> Q. [Mr. Cochis] Is that correct?
>
> A. [Baumann] No, I don't think you can conclude that from this response [sic]. The numbers you've produced for residential are higher than the overall rate; but you've taken total revenues, which include both energy and demand revenues, and divided it just by kilowatthour sales. Those kilowatthour sales have no relationship to the demand revenues in your numerator. So the numbers you've produced are not usable.

There is no supporting witness for Exhibit AG-2 and the only testimony in the proceeding pertaining to Exhibit AG-2 shows that it is seriously flawed. Based upon the record, therefore, the Department may give no weight to Exhibit AG-2. Because the Attorney General's argument is based on Exhibit AG-2, the Attorney General's contention must be rejected.

Third, WMECO's same Transition Charge design has been reviewed and approved by the Department dating back to D.T.E. 97-120 (including D.T.E. 00-110, D.T.E. 01-101, D.T.E. 02-77, and D.T.E. 03-125). The Transition Charge reconciliation proceedings in which the design was approved were D.T.E. 00-33, D.T.E. 01-36/02-20 and D.T.E. 03-34.

There is no allegation that WMECO changed its Transition Charge design in this case. Rather, the only evidence on the record of this case is that WMECO designed its transition charge correctly to collect the same average cents per kwh (Exh. AG-WM-RR-1). WMECO further explained its procedure both on the record and in responses to record requests. *See* Exhibits AG-WM-RR-1 to RR-3. As the only evidence on the record, consistent with past precedent, there is no basis for a contrary finding. The Attorney General may think, as indicated by his improper extra-record testimony on brief, that other electric companies design their transition charge differently (Attorney General Brief, p. 15). However, that allegation, aside from being improper, is completely unsubstantiated.

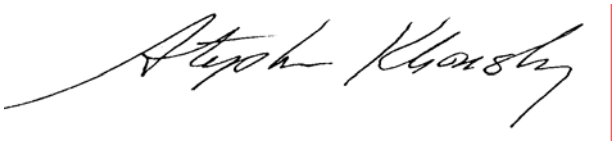
In sum, there is no basis in this case for ordering a "rate class specific reconciliation of transition charge revenues" going back to 2002 as requested by the Attorney General. For the reasons stated above, the Attorney General's position should be rejected.

III. CONCLUSION

WHEREFORE, for all of the foregoing reasons, the Department of Telecommunications and Energy should approve the recovery of Western Massachusetts Electric Company's Transition Charge reconciliation costs, Default Service reconciliation costs, Standard Offer reconciliation costs and transmission reconciliation costs as set forth by Messrs. Mahoney and Baumann in Exh. WM-1, as amended for the calculation of carrying costs, as shown in Exhibit WM-AG-IR-1-5.

Respectfully submitted,

WESTERN MASSACHUSETTS ELECTRIC COMPANY



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